

FILED 10 FEB 25 15:11 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

07-CR-47-BR

Plaintiff,

ORDER

v.

MILENKO KRSTIC,

Defendant.

DWIGHT C. HOLTON

United States Attorney

DAVID L. ATKINSON

Assistant United States Attorney

1000 S.W. Third Ave., Suite 600

Portland, OR 97204-2902

(503) 727-1000

Attorneys for Plaintiff

STEVEN T. WAX

Federal Public Defender

CHRISTOPHER J. SCHATZ

Assistant Federal Defender

101 S.W. Main Street

Suite 1700

Portland, OR 97201

(503) 326-2123

Attorneys for Defendant

BROWN, Judge.

This matter comes before the Court on Defendant's Motion (#15) to Produce Federal Rule of Evidence 16(a)(1)(G) Statement(s) of Expert Witness(es) No Later than Thirty Days Prior to Trial, Defendant's Motion (#16) for Order Directing Government to Provide Rule 404(b) Notice Thirty Days in Advance of Trial, Defendant's Motion (#17) to Produce *Brady* Material and Cooperation Agreements and Satisfaction of Prosecutor's Duty of Inquiry and *Henthorn* Review, Defendant's Motion (#19) for Specification of Evidence Government Intends to Use at Trial, and the government's Motion (#50) for Psychiatric Exam/Treatment.

On February 19, 2010, the parties filed a Joint Statement (#72) Re Status of Pending Motions - Docket Nos. 15, 16, 17, 19, 50, and 66 in which they advised the Court in pertinent part:

1. As to Defendant's Motion for Production of Federal Rule of Evidence 16(a)(1)(g) Statement(s) of Expert Witness(es) No Later than Thirty Days Prior to Trial, the parties jointly agreed to produce Rule 16(a)(1)(g) expert-witness summary of testimony statements on or before May 10, 2010.
2. As to Defendant's Motion for Order Directing Government to Provide Rule 404(b) Notice Thirty Days in Advance of Trial, the government advised it intends to offer evidence pertaining to the activities of the Zvornik

Brigade's involvement in genocide of Muslim men in and around the City of Zvornik, Bosnia-Herzegovina, in July of 1995. The government also advised this testimony will be offered through its expert witness, Richard Butler. The government agreed to provide notice of any additional Rule 404(b) evidence to Defendant no later than May 10, 2010.

3. As to Defendant's Motion for Production of *Brady* Material and Cooperation Agreements and Satisfaction of Prosecutor's Duty of Inquiry and *Henthorn* Review, the government agreed it would turn over all identified *Brady* material and respond to Defendant's *Henthorn* request no later May 10, 2010.
4. As to Defendant's Motion for Specification of Evidence Government Intends to Use at Trial, the government states it has turned over all reports and other written materials setting forth statements made by Defendant. In the event new evidence and/or information is developed by the government in the course of trial preparation, including additional statements made by Defendant, the government will make that evidence and/or information available to defense counsel forthwith.
5. As to the government's Motion for Mental Examination of

Defendant, Defendant agrees to cooperate with the government to schedule such an examination. The government has not yet identified an examiner nor have the parties resolved the question whether an interpreter must be used. Nevertheless, the parties will strive to resolve these issues and others as they arise. In the event a resolution by way of conferral cannot be reached, those issue(s) shall be submitted to the Court for resolution.

Based on the parties' Joint Statement, the Court


1. **GRANTS** Defendant's Motion (#15) to Produce Federal Rule of Evidence 16(a)(1)(G) Statement(s) of Expert Witness(es) No Later than Thirty Days Prior to Trial and **DIRECTS** the parties to produce Rule 16(a)(1)(g) expert-witness summary of testimony statements on or before **May 10, 2010**.
2. **GRANTS** Defendant's Motion (#16) for Order Directing Government to Provide Rule 404(b) Notice Thirty Days in Advance of Trial and **DIRECTS** the government to provide notice to Defendant of any additional Rule 404(b) evidence no later than **May 10, 2010**.
3. **GRANTS** Defendant's Motion (#17) to Produce *Brady* Material and Cooperation Agreements and Satisfaction of Prosecutor's Duty of Inquiry and *Henthorn* Review and

DIRECTS the government to produce all identified *Brady* material and to respond to Defendant's *Henthorn* request no later than **May 10, 2010**.

4. **DENIES as moot** Defendant's Motion (#19) for Specification of Evidence Government Intends to Use at Trial.
5. **GRANTS** the government's Motion (#56) for Psychiatric Exam/Treatment of Defendant.

IT IS SO ORDERED.

DATED this 25th day of February, 2010.



ANNA J. BROWN
United States District